THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HONBLE DR.JUSTICE G.YETHIRAJULU

–

WRIT APPEAL NO. 2102 OF 2005.

DATED: 07-11-2005

Between

Syed Ali son of Osman Mohammed (late)

Aged about 55 yrs, worked as helper

InAllwyn Auto Division r/o 16-4-40,Chanchalguda

Hyderabad.

….Appellant

And

1.The Management of the Allwyn Limited

Auto Division,Sanathnagar, Hyderabad and 3

Others.

…Respondents

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JUDGMENT (Per Sri B.Prakash Rao, J)

Heard Mr.S.Chandrasekhar, learned counsel for the appellant, learned Government Pleader for Industries and also Mr.M.Anil Kumar, learned counsel for the Official Liquidator.

The main question involved in this proceedings is as to whether there is any long delay and lathes on the part of the appellant herein in seeking shelter by way of raising a dispute under the provisions of the Industrial Disputes Act, 1947.

There is no dispute to the basic facts that the appellant was an employee with the respondent company and he was removed from service on 13-02-1980. Subsequently, a dispute was raised and it was taken as I.D.No.98 of 1993 wherein the Labour Court after holding an enquiry, passed a Nil award rejecting the claim of the petitioner mainly on the ground that there is delay of 13 ½ years i.e., from 1980 onwards in approaching the said authority. The said order was challenged by the appellant in this Court by way of writ petition and the same was dismissed followed by dismissal of review also, on the self same ground of delay on the part of the appellant.

Having considered the submissions made and on perusal of record, it is seen that certain basic facts have not been brought to the notice of the Labour Court and also to the learned single Judge. There is no dispute to the fact that the appellant while he was working as Helper, he applied for leave from 13-01-1980 to 05-02-1980. Later on, treating the same as unauthorized absence, he was removed from service on 13-02-1980. Later, the conciliation held was also failed on 10-07-1987. Thereafter, the matter was referred to the Labour Court and it was taken up as I.D.No.505 of 1987 and the said reference was subsequently transferred to the present Court which was numbered as I.D.No.98 of 1993. In fact, in the Labour Court, the said failure report was marked as Ex.W6. However, this fact was not taken into consideration and the delay was attributed against the appellant. It is quite apparent that there are no serious lathes of delay on the part of the appellant for the earlier reference in I.D.No.505 of 1987 and Ex.W6 was not taken up for consideration. In the circumstances, we deem it more appropriate to direct fresh enquiry.

Accordingly, the writ appeal is allowed setting aside the impugned award, dated 30-08-1993 in I.D.No.98 of 1993 and the matter is remitted to the 3rd respondent herein for fresh enquiry and disposal in accordance with law after giving notice and opportunity to both sides. On receipt of papers, the 3rd

respondent shall dispose of the same within a period of three months. No costs.

B.PRAKASH RAO, J

Dated: 07-11-2005.

G.YETHIRAJULU, J

Hsd